

CNR No: WBSP010120262023

Present: Subhra Som Ghosal

J.O Code: WB00984

ST Case No- 02 (02) of 2024

[Arising out of SC Case No: 34 (08) of 2023]

Order No. 08, dated: 04-07-2024.

All that the accused persons namely **A1) Mainuddin Molla @ Madhu @ Mahiruddin Molla @ Bhadu, A2) Sukur Sk @ Sukur Ali Sk, A3) Ajaruddin Sk, A4) Ayamad Ali Sanpui, A5) Bapi Molla, A6) Pintu Molla, And A7) Aizul Jamadar@ Molla** have been produced from J/C.

As stipulated by the previous order today is fixed for further examination-in-chief of P.W-02.

On call learned lawyers for the accused persons, de facto complainant as well as the Ld. Public Prosecutor-in-charge appointed for this case are found to be present.

PW-02 is present and hazira has been filed by the Ld. Public Prosecutor-in-charge.

The I/C Bishnupur police station by filing a petition has informed this Court that despite his best efforts and even after intervention by the Superintendent of Police, Diamond Police District, the seized Alamat could not be produced from the State Forensic Science Laboratory, West Bengal as it is still pending for examination with the State Forensic Science Laboratory, West Bengal. Along with the petition the investigating officer has also produced a DO letter given by the Superintendent of Police, Diamond Police District to The Administrator, State Forensic Science Laboratory, West Bengal.

Two sealed envelopes purportedly containing the ballistic and physics report from the FSL has been filed by the investigating officer. Let those be kept with the case record. The reports being further evidence collected by the investigating officer, duly authenticated copy be handed over to the investigating officer so that copies of the same is supplied to the accused persons.

The Learned Public Prosecutor-in-charge submitted that a substantial part of evidence of P.W-02 has been recorded but in absence of the seized Alamat his further examination is not possible.

The Ld. Advocates for the accused persons have objected to the prayer and submitted that the accused persons should not be made to suffer due to the inaction or delay on the part of the State mechanism and the case must proceed closing the evidence of P.W-02.

I have meticulously inspected the case record staying alive to the question mooted before me.

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From the case record it has transpired that this Court by order dated 30-04-2024 this Court requested the Administrator, State Forensic Science Laboratory, West Bengal to ensure that the examination process is completed within the time span and the reports are submitted without least possible delay. This Court appreciates the gumption of the Administrator, State Forensic Science Laboratory, West Bengal as two reports after the ballistic examination and the physics examination have been filed but the biological report is yet to be received.

Definitely speedy trial is the Constitutional right of the accused persons. But this Court cannot be oblivious of the fact that the object of trial is to master out justice and to convict the guilty and protect the innocent. It has been reiterated by the Hon'ble Supreme Court that the trial should be a search for the truth and not a bout over technicalities and must be conducted under such rules as will protect the innocent and punish the guilty. The concept of speedy trial cannot be accentuated to such an extent where it would eliminate the requirement of fair trial. Justice due to the accused person is equally due to the victim. Hence the prayer of the accused persons cannot be accepted.

At the same time this Court should not sit idle and allow time to pass for want of report from the expert. It is the indelible duty of this Court to take a proactive role and press for the report so that the trial is sent into hibernation. This Court also acknowledges the workload at the end of the Forensic Science Laboratory, but at the same time, the right of the accused persons to get speedy trial cannot be ignored.

In the facts and circumstances of this case this Court is compelled to remind the Administrator, State Forensic Science Laboratory, West Bengal that procrastination is an anathema to the judicial process, and in a case of this nature, we are required to be ever vigilant to ensure that the Constitutional mandate of speedy trial oozing out from several decisions of the Hon'ble Supreme Court is hoisted.

Hence Administrator, State Forensic Science Laboratory, West Bengal is requested directed to ensure submission of the report after due examination and seized Alamat sent for examination is handed over to the investigating officer after due examination.

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Non-compliance with this order will be regarded as defiance to the Constitutional ethos and mandate of speedy trial, and this Court will be compelled to pass necessary orders against the Administrator, State Forensic Science Laboratory, West Bengal.

Let a copy of this order be sent to the investigating officer for his information and necessary action and the copy of the order be served to the Administrator, State Forensic Science Laboratory, West Bengal through the investigating officer.

To 24-07-2024 for further examination-in-chief of PW-02 and hearing of the petition under section 231 of Criminal Procedure Code 1973 and compliance of this order.

To ensure that the victim can depose freely, the I/C Bishnupur police station is directed to act as per Rule 30(bb) of the Guidelines for recording of Evidence of Vulnerable Witnesses notified by 2688-RG dated 29-07-2022 of the Hon'ble High Court and take steps as per the Witness Protection Scheme was approved by the Supreme Court of India on December 5, 2018 in the case of Mahendra Chawla v. Union of India, (2018 SCC Online SC 2678) and given necessary protection to the witnesses namely P.W-02, CSW-08, 10 and 17 till their evidence is recorded.

Let a copy of this order be sent to the Investigating Officer as well as to I/C Bishnupur police station.

The accused persons are remanded to J/C till the next date.

Typed to the dictation directly;
corrected on the system.

Sd/-Subhra Som Ghosal
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

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